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**UNITED STATES BANKRUPTCY COURT**  
**EASTERN DISTRICT OF CALIFORNIA**

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In re:	)	Case No. 09-28900-C-7
	)	
JESTINA PICKETT,	)	Docket Control No. ALG-1
	)	
Debtor.	)	Date: January 12, 2023
	)	Time: 10:00 a.m.
	)	Dept: C (Courtroom 35)

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**MEMORANDUM DECISION AND ORDER**

10 In a reported decision, this court rejected, without  
11 prejudice, the application by Select Portfolio Servicing, Inc.,  
12 (SPS) for payment of \$228,288.47 in unclaimed funds on deposit in  
13 the United States Treasury pursuant to 11 U.S.C. § 347(a). That  
14 decision also determined that a debtor cannot leapfrog the  
15 distribution scheme of 11 U.S.C. § 726 and does not become  
16 entitled to unclaimed funds merely because a payee on a chapter 7  
17 trustee's dividend check issued on account of an allowed claim  
18 has not come forward timely to assert its rights to the funds.  
19 In re Jestina Pickett, 632 B.R. 78, 70 Bankr. Ct. Dec. 154  
20 (Bankr. E.D. Cal. 2021).

21 At that time, this court was not persuaded that SPS had  
22 provided "full proof" of being the "rightful owner" of the funds  
23 as required by 28 U.S.C. § 2042. The circumstances of the  
24 \$228,288.47 chapter 7 dividend as they then appeared, based on  
25 the trustee's sale of real property for which recording of the  
26 deed of trust had been bungled, suggested there might be other  
27 claimants. Accordingly, the SPS application was denied without  
28 prejudice.

1 Now supported by a better record, SPS re-applies for payment  
2 of the \$228,288.47 that is on deposit in the Treasury pursuant to  
3 § 347(a) and subject to disposal under Chapter 129 of Title 28 -  
4 i.e., 28 U.S.C. §§ 2041-2045.

5 SPS submitted the following documents to make its record in  
6 support of "full proof" of its status as the "rightful owner" of  
7 the unclaimed funds as required by 28 U.S.C. § 2042:

- 8 (1) Promissory Note;
- 9 (2) Deed of Trust;
- 10 (3) Face Page of Pooling and Servicing Agreement between  
11 Mortgage Trustee and Loan Servicer;
- 12 (4) Loan Modification Agreement;
- 13 (5) Consent Order by Board of Governors of the Federal  
14 Reserve System;
- 15 (6) Notice of Servicing Transfer;
- 16 (7) Original Application of Unclaimed Funds by SPS;
- 17 (8) Limited Power of Attorney;
- 18 (9) Subservicing Agreement between Servicer and Subservicer;
- 19 (10) Notice of Servicing Transfer; and
- 20 (11) Declaration from Title Insurance Company.

21 SPS also provided under seal for inspection in camera an  
22 unredacted version of the servicer/subservicer agreement.

23 This court has reviewed all of the materials provided by SPS  
24 and is now persuaded that SPS has provided "full proof" it is the  
25 "rightful owner" of the unclaimed funds for purposes of 28 U.S.C.  
26 § 2042.


27 IT IS ORDERED that the application of Select Portfolio  
28 Servicing, Inc., for distribution of the \$228,288.47 on deposit  
in the Treasury is GRANTED.

1 IT IS FURTHER ORDERED that the Clerk is directed to pay  
2 \$228,288.47 from the Unclaimed Funds to:

3 Select Portfolio Servicing, Inc.  
4 Attn: Shariyu Preston Corp Legal  
5 3217 S. Decker Lake Drive  
6 Salt Lake City, UT 84119

7 The funds may be disbursed only after 14 calendar days from  
8 the entry on docket of this order to allow for the appeal period  
9 to expire.

10 **Dated: January 17, 2023**

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13 United States Bankruptcy Judge  
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**INSTRUCTIONS TO CLERK OF COURT  
SERVICE LIST**

The Clerk of Court is instructed to send the attached Order via first class mail, to the following parties:

Jestina L. Pickett  
232 West Lucita Way  
Mountain House, CA 95391

Jestina Pickett  
28 E. Legacy Dr.  
Tracy, CA 95391

David Van Dyke  
2111 West March Lane, Suite B300  
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Sacramento, CA 95814

Arnold Graff  
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4665 MacArthur Court, Suite 200  
Newport Beach, CA 92660

Dana Suntag  
Herum Crabtree Suntag  
5757 Pacific Avenue, Suite 222  
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Gary Farrar  
PO Box 576097  
Modesto, CA 95357

Office of the U.S. Trustee  
501 I Street, Suite 7-500  
Sacramento, CA 95814

Arthur Unger  
Brighton Capital Corporation  
8185 Via Ancho Road  
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